

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIVEN D. BUNDY *et al.*,

Defendants.

Case No.: 2:16-cr-046-GMN-PAL

**ORDER**

Pending before the Court are Defendant Cliven Bundy's ("C. Bundy's") Motion to Modify Court Order Setting June 26, 2017 Trial Date (ECF No. 1873)<sup>1</sup> and Motion to Clarify Current Trial Schedule and Consolidate Trial (ECF No. 1918). The Government filed a Response (ECF No. 1925), and C. Bundy filed a Reply (ECF No. 1959).

Also pending before the Court is Defendant Peter T. Santilli's ("Santilli's") Motion to be Tried with Tier Three (ECF No. 1888), to which the Government filed a Response (ECF No. 1945), and Santilli filed a Reply (ECF No. 1952).

Similarly, pending before the Court is Defendant Ryan W. Payne's ("Payne's") Motion to Commence His Trial No Later Than June 26, 2017 (ECF No. 1899), to which the Government filed a Response (ECF No. 1955), and Payne filed a Reply (ECF No. 1970).

On March 2, 2016, a federal grand jury sitting in the District of Nevada returned a Superseding Indictment charging nineteen defendants with sixteen counts related to a confrontation with Bureau of Land Management ("BLM") Officers in Bunkerville, Nevada, on April 12, 2014. (ECF No. 27). On December 12, 2016, Magistrate Judge Peggy A. Leen

<sup>1</sup> Defendants Peter T. Santilli, Ryan W. Payne, and Ammon E. Bundy filed Motions for Joinder (ECF Nos. 1874, 1876, 1897) to C. Bundy's Motion to Modify Court Order Setting June 26, 2017 Trial Date (ECF No. 1873). For good cause appearing, the Court grants these Motions for Joinder. (ECF Nos. 1874, 1876, 1897).

1 entered an Order (ECF No. 1098) severing the nineteen defendants in this case into three tiers  
2 and informing the parties that the commencement of each trial will begin thirty days after the  
3 conclusion of the previous trial. On February 6, 2017, the first trial began with the six  
4 defendants constituting tier three. On April 24, 2017, the jury rendered a partial verdict,  
5 finding Defendant Gregory Burleson guilty as to Counts 5, 6, 8, 9, 12, 14, 15, and 16, and  
6 Defendant Todd Engel guilty as to Counts 12 and 16. (ECF No. 1887). However, the jury  
7 deadlocked on the remaining counts for these two defendants and all counts as to the other four  
8 defendants. (*Id.*). Subsequently, the Court made a finding of manifest necessity and declared a  
9 mistrial on all deadlocked counts. (*Id.*).

10 The Court grants in part C. Bundy's Motion to Clarify Current Trial Schedule and  
11 provides the following clarification. The Government's Response indicated its intent to retry  
12 the tier three defendants following the April 2017 mistrial. (*See* Gov't Resp. 3:22–4:4, ECF  
13 No. 1925). Under the Speedy Trial Act, "If the defendant is to be tried again following a  
14 declaration by the trial judge of a mistrial or following an order of such judge for a new trial,  
15 the trial shall commence within seventy days from the date the action occasioning the retrial  
16 becomes final." 18 U.S.C. § 3161(e). Mistrial was declared on April 24, 2017. (ECF  
17 No. 1887). As such, the Court must retry the tier three defendants first within seventy days,  
18 then proceed to try the tier one defendants, pursuant to the severance order (ECF No. 1098) and  
19 the Speedy Trial Act.

20 To the extent that the tier one defendants C. Bundy, Santilli, and Payne request to be  
21 tried on June 26, 2017, with the tier three defendants, the Court denies these requests as the  
22 Court's prior severance order remains in effect. The tier one defendants will proceed to trial  
23 thirty days following the entry of verdict in the retrial of the tier three defendants.

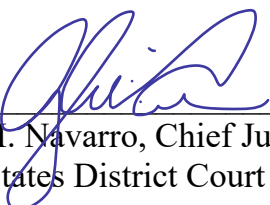
24 Accordingly,  
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1           **IT IS HEREBY ORDERED** that C. Bundy's Motion to Clarify Current Trial Schedule  
2 and Consolidate Trial (ECF No. 1918) is **GRANTED IN PART AND DENIED IN PART**.  
3 The Court **GRANTS** the request for clarification and **DENIES** the motion in all other respects.  
4 Retrial of the tier three defendants in this matter will begin on Monday, June 26, 2017, at 8:30  
5 a.m. before Chief Judge Gloria M. Navarro in Courtroom 7C. Calendar Call will be held on  
6 Thursday, May 25, 2017, at 9:00 a.m. before Chief Judge Gloria M. Navarro in Courtroom 7C.  
7 Trial for the tier one defendants will proceed thirty days following the entry of verdict in the  
8 retrial of the tier three defendants.

9           **IT IS FURTHER ORDERED** that C. Bundy's Motion to Modify Court Order Setting  
10 June 26, 2017 Trial Date (ECF No. 1873), Santilli's Motion to be Tried with Tier Three (ECF  
11 No. 1888), and Payne's Motion to Commence His Trial No Later Than June 26, 2017 (ECF  
12 No. 1899) are **DENIED**.

13           **IT IS FURTHER ORDERED** that the Motions for Joinder (ECF Nos. 1874, 1876,  
14 1897) are **GRANTED**.

15           **DATED** this 17th day of May, 2017.

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19 Gloria M. Navarro, Chief Judge  
20 United States District Court  
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